

LINCOLN PLANNING BOARD

OCTOBER 25, 2006

MINUTES

The regular meeting of the Planning Board was held on Wednesday, October 25, 2006, at the Town Hall, 100 Old River Road, Lincoln, RI.

Chairman Mancini called the meeting to order at 7:06 p.m. The following members were present: Patrick Crowley, Diane Hopkins, David Lund, John Mancini, Gregory Mercurio, and Gerald Olean. Absent were Michael Reilly and Town Engineer Kim Wiegand. Also in attendance were Town Planner Albert Ranaldi and Assistant Town Solicitor Paul Brule. Margaret Weigner kept the minutes.

Chairman Mancini advised six members present; have quorum.

SECRETARY'S REPORT

There was no secretary report for review.

CONSENT AGENDA

Mr. Crowley stated that he would like to remove one zoning item from

the Consent Agenda – Prev Court, LLC on page 8. Chairman Mancini stated that any item on the consent agenda could be removed and discussed separately by making a motion. There are eight items on the agenda for consideration. A few of the items have been before the Board before – they haven't been settled by the Zoning Board yet. Ms. Hopkins arrived at meeting.

Mr. Olean made a motion to approve the Consent Agenda as amended, removing Prev Court, LLC from the agenda. Mr. Mercurio seconded motion. Motion passed unanimously.

Mr. Crowley stated that the Technical Review Committee (TRC) recommended approval for the application for a dimensional variance for two properties on Preserved Arnold Court, which is a small neighborhood in his district. The houses are small with smaller front yards than most developments that are approved now. Without the variance for smaller front yards, the setbacks would require building on wetlands. He respectfully disagrees with the TRC recommendation that it wouldn't disrupt the character of the neighborhood. Smaller front yards are an historical fact – that's how it was done in the past, but it doesn't mean that we have to do it now. The dimensional variance is putting front yards in a dramatic slope that runs into Lincoln Woods opening up to a pond area. This would be a big change to the neighborhood. A Greenway has been established from Lincoln Woods, through the development, across the street to Gateway Park and into Chase Farm. Community groups use this

greenway on a regular basis. If the variance is granted, the greenway will no longer exist. He doesn't know if it is an official path or just something that has existed for fifty or so years. He does not recommend approval for this variance.

Chairman Mancini asked how much of a variance is being requested for the front yards. Mr. Ranaldi replied that the applicant is seeking ten feet (10'). Ms. Hopkins asked if a plan was approved for houses back there. Mr. Ranaldi stated that the two lot subdivision was approved – it met all of the subdivision regulations and the zoning ordinance. The Planning Board approved the subdivision with the condition of RI Department of Environmental Management (RIDEM) approval. RIDEM came back with a request for an additional 10'.

Attorney Michael Kelly stated that he is representing the applicant. He appeared before the Planning Board for the two lot subdivision. They are seeking a variance for one lot. The other lot is in compliance with the setbacks. The applicant agreed to give a major portion on the left of the property including the pond to the Town as open space. The houses are outside the wetlands and wetlands jurisdiction. RIDEM raised the possibility of run off or sediment going into the buffer area during construction. RIDEM asked the applicant to seek a 10' variance for construction vehicles. The open space area is larger than the two lots. The setback is 25' – asking to be reduced to 15' at the request of RIDEM.

Mr. Crowley asked if the land for open space was behind the gas station. Mr. Kelly stated that he wasn't sure but that it was the land surrounding the pond and the entire pond. Ms. Hopkins stated that she remembered that there is a walkway between the gas station and the road with access to the pond.

Mr. Crowley stated that it seems like no one wants to say no. RIDEM would say no without the variance. Ms. Hopkins stated that she recalls that the Town Planner told the Board that the land was fine to build houses on and that there was plenty of room and space would be given for the walkway to the pond. Mr. Kelly stated that there is 50' area behind houses to walk to pond.

Mr. Mercurio asked if this was something that was recently approved and RIDEM is coming back to ask for something. Mr. Kelly stated that RIDEM is concerned about sediment during construction and asked for an additional 10' buffer. Both houses would be back 10' – instead of 50', the houses will be 60' away from water. Mr. Mercurio asked if this was a new modification requested by RIDEM for something previously approved, based on information previously given by RIDEM that was not in conflict. Mr. Ranaldi agreed. Mr. Crowley stated that he does not agree that is correct. It sounds like the Planning Board said they would approve it if RIDEM said it was okay and RIDEM says it's not okay without a variance. Mr. Ranaldi stated that it was approved with the condition of RIDEM approval. The developer applied to RIDEM and RIDEM asked for an additional 10'

because of the slope.

Chairman Mancini stated that sometimes, projects are approved subject to RIDEM approval and RIDEM will come back and say something different. For example, the Planning Board can approve a development for 12 lots and RIDEM says it will only allow 8 lots. It happens infrequently, but it can happen. Instead of the developer coming back before the Board, starting all over and restructuring for two lots, they are asking for a variance. The Planning Board is only making a recommendation to the Zoning Board.

Mr. Crowley made a motion to recommend denial of the variance. Mr. Olean seconded motion. Mr. Olean stated that when the subdivision was approved, it was approved with no variances and now the applicant is coming back for a variance as requested by RIDEM.

Mr. Lund asked if the variance was approved, would it have a large, negative effect. Mr. Ranaldi replied no. Ms. Hopkins asked if it was mostly for construction. Mr. Ranaldi stated that this is the purest form of the regulations due to the unique characteristics of the site. He is assuming that RIDEM would have a different opinion if it was a flat site and the area wasn't going to have silt and sedimentation going into the wetlands. This is a steep slope, while it can be engineered and constructed properly on a slope, there still is the sedimentation that could be a problem. The front yards will be flat to the road, the back yards will be steep. Mr. Mercurio asked if the

variance is being requested in order to put the house in a different geographic spot on the lot or is it being requested in order to allow construction of the house on the same footprint that it would have been on before. Mr. Ranaldi stated that it is moving the house forward 10'. Mr. Meruciro asked if it was in order for the construction equipment not to tramp on the wetlands and to protect the wetlands from the construction rather than from the house. Mr. Ranaldi explained that the developer has the ability to construct the house without going in this area, but RIDEM requested that the developer seek a variance and get the extra 10' to have the buffer or cushion zone. Mr. Meruciro asked if a construction variance could be granted by RIDEM and Mr. Ranaldi replied no.

Mr. Crowley stated that the houses are going to be in a different spot then what has already been approved, whether it is for the construction or because that is what the developer wanted. The houses are going to be 10' closer to the property line and the street. The concerns of the neighbors are that it will substantially change the character of the neighborhood. It is a small little street with small little houses. Just because the other houses are closer to the street doesn't mean that these houses have to be closer to the street.

Mr. Lund asked how big the houses are. Mr. Kelly responded that the houses are 30' x 50'. Mr. Lund asked if there was any chance of changing the dimensions of the houses and Mr. Kelly responded that they did. Mr. Kelly stated that one house was changed to an L-shape

to pull it further back from the wetlands edge and that Mr. Ranaldi's description of RIDEM's position is exactly correct. The house is located outside of RIDEM's jurisdiction. Their concern is that during construction, sediment may go into the 50' buffer and they would not give approval before the developer sought a variance.

Mr. Mercurio asked if they were seeking a variance on one lot or two. Mr. Kelly replied both lots. He misspoke earlier and said one lot. Mr. Ranaldi stated that it is technically still one lot as the subdivision has not yet received final approval.

Chairman Mancini stated that there is a motion on the floor to recommend denial of the variance to the Zoning Board. Mr. Crowley and Mr. Olean voted yes. Mr. Mancini, Mr. Mercurio, Mr. Lund and Ms. Hopkins voted no. Motion does not carry.

Mr. Mercurio made a motion to accept the recommendation of the TRC. Ms. Hopkins seconded motion. Mr. Crowley and Mr. Olean voted no. Motion carries.

MAJOR SUBDIVISION REVIEW

a. Angell Road Subdivision – Modification AP 44 Lots 12 & 90 Public Hearing – 7:15 pm

Angell Road Development Co.
Rds. Preliminary Plan

Angell & Whipple

Discussion/Approval

Chairman Mancini explained the process for the public hearing. Mr. Ranaldi will discuss the development, the developer will make a presentation, the Planning Board can ask questions, and then the public may speak. The list of abutters was read.

Mr. Ranaldi explained that this is a modification of a Preliminary Plan that was approved by the Planning Board – a 13 lot subdivision that has been constructed. The applicant has entered into a Purchase and Sales Agreement with an abutting property owner and has proposed to modify the plan to add two additional single family residential lots that would be located at the end of a new cul de sac. Both lots will be serviced by public sewer and water. Both lots are in an RS-20 zone and each have a minimum of 20,000 buildable square feet. On August 16, 2006, the Preliminary Plan submitted for the project received a Certificate of Completeness. The Planning Board has until November 19, 2006 to approve, approve with conditions, or deny. The TRC reviewed the plans and all of the subdivision regulations were addressed.

Chairman Mancini asked what other changes were made to this plan. Mr. Ranaldi stated that Lots #10 and #11 were reconfigured to allow the cul de sac to be put in. The drainage system can accommodate two additional houses. The sewer pump station is going to be brand

new. Ms. Hopkins asked if this subdivision was only changing because an abutter sold part of their lot and Mr. Ranaldi replied yes.

Chairman Mancini stated that a public hearing was being held because two lots were being added and the Board wanted abutters to know what was going on.

Mr. Joshua Rosen of Commonwealth Engineers represented the applicant. Mr. Rosen stated that Mr. Ranaldi went over everything in detail and he is here to answer any questions. Mr. Olean asked if any waivers were being requested. Mr. Rosen replied no. Mr. Olean asked if Plat 44 Lot 90 has been subdivided yet. Mr. Rosen replied no. Mr. Kelly stated that it is all one piece and they are adding two lots to the subdivision and the house will remain on a separate lot that is being cut off as part of this project. Mr. Olean stated that the Board does not want to approve the two lot subdivision before the other lot is cut off. Mr. Kelly stated that it could all be done at the same time. Mr. Olean stated that there is no proposal in front of us to save her piece for the house. Mr. Kelly stated that it is all part of the proposal. Mr. Olean stated that he wants to make sure that everything is being done correctly. Mr. Kelly stated that you can see the lot line on the plans at the rear of her house. Mr. Ranaldi stated that the final plans will show 15 lots.

No abutters spoke at the hearing.

Mr. Mercurio made a motion to close the public hearing. Mr. Crowley seconded motion. Motion passed unanimously.

Mr. Mercurio asked since there was no opposition, if it would be appropriate to move this project along to the next level.

Mr. Mercurio made a motion to approve the modification of this plan at Preliminary Plan level. Ms. Hopkins seconded motion. Motion passed unanimously.

b. Kirkbrae Ledges Subdivision – Phase 11 AP 32 Lot 45 Master Plan Discussion/

Kirkbrae Ledges, LLC Lancers Lane & Hemlock Road Approval

Chairman Mancini stated that a public informational hearing was held last week and would like to see a decision tonight as the Board only has until November 14, 2006 to approve, approve with conditions or deny.

Assistant Solicitor Paul Brule recused himself from this matter.

Mr. Mercurio stated that last week there were rather strong comments from the neighbors against the development and recommended the applicant address the concerns to the Town Engineer and Planner for a possible resolution. Mr. Ranaldi stated

that he hasn't heard anything since the public hearing from the abutters.

Mr. Kelly stated that he hasn't heard anything additional but he has a proposed resolution. Mr. Kelly stated that he knows the blasting was a major concern. He would like to discuss the safeguards in place by state law and a proposal that they will implement at Preliminary Plan stage. A written blasting plan which will set forth the safeguards, the procedures, and the blasting plan that will have to be followed in conjunction with the Town's engineering department. The RIGL Chapter 23 28.28-1 regulates blasting. The state is the only one that can regulate blasting. These laws were promulgated after problems with blasting, especially with quarries. A permit is required from the State Fire Marshall's office, approval from the fire department, and there are standards and specifications set forth by state law which are monitored very closely. There are specific blasting limits, specific seismographic limits that are imposed and a seismograph must be on site at all times when a blast occurs. Specific records must be kept and given to the State Fire Marshall and fire department and there are very strict rules in terms of the decimal level (noise levels) and specific vibration levels monitored by the seismograph. Regulations also regulate noise, dust and other things that take place. There is a strict requirement on keeping records – the amount of explosive use, the type that can be used, etc. Important to the neighbors, there are protections available above and beyond state law. State law requires blasting companies have a bond and they post the bond with the

State Fire Marshall's office. The bond is held if any damage is done to any property. Upon a complaint, the State Fire Marshall could call the bond for payment to the property owner. Another form of protection that is not required by state law is a specific and detailed plan put together by a geologist. A pre-blast survey of the houses within 200' of the project whereby the houses would be inspected and videoed, interior and exterior. Video and inspection reports protect everyone – the homeowner and the contractor. The pre-blast inspections are done at the cost of the contractor. The inspection reports and video can be turned over to the homeowner. Blasting mats are used to cover the blast to reduce noise, dust and flying material. There would be warning signals given. There are written notices given to everyone within 500' within 24 hours in advance and we propose giving notice seven days in advance. In addition, an audible sound has to be given to reach properties within 500'. State law sets forth how long the siren has to be. This is above the notice required by state law. A visible warning sign would be made that warns of blasting in the area. Test blasts would be conducted by the contractor to determine the type of rock and how much explosives are needed. The blasting contractor needs to maintain very strict logs – when the blast took place, how much explosives were used, and how many holes drilled, the depth of holes, etc. Blasting is very strictly regulated by state law and the developer is proposing to go above and beyond that - pre-blast surveys, written notice within 500', the audible sound in advance and visible signs in the area. Mr. Kelly stated that blasting is a concern but it takes place on a regular basis

and it is down to a science as opposed to way things were done twenty years ago. Seismographs monitor the vibrations in the ground. Blasting contractors have a state license and if they don't do it right, the Fire Marshall is not afraid to hike their license. There are numerous protections in place. The developer is proposing as a condition, in addition to the other conditions proposed by the TRC, a written plan specific to this site by a qualified professional (a geologist) to be presented to the Board and reviewed by the engineering department.

Chairman Mancini stated that this particular issue would be addressed at Preliminary Plan level and appreciates the developer bringing it up now.

Mr. Mercurio stated that this proposal is very important and that the anticipation of blasting is worse than the actual blasting. He suggests having a neighborhood meeting and explaining in detail what will happen. The immediate abutters have a need to know. Mr. Kelly stated that he does not have a problem with that. At Preliminary Plan level, this would be explained in detail with the geologist present to answer questions. Mr. Kelly further stated that there is no waiver requested for sidewalks.

Chairman Mancini stated that he spent quite a bit of time reviewing the plans for this project. His comments are his own personal comments. The TRC recommends Master Plan approval with six

waivers – four house lots, road length, and sidewalks. The developer is receptive to putting sidewalks in. Chairman Mancini personally will not support more than 4 waivers – road length, Lots #1, 5, & 12. He does not support Lot #13. He agrees with the Town Engineer on Lot #13. Lots #12 and #13 have technically no building area based on the subdivision regulations. He could live with Lot #12 and let RIDEM determine if it is a buildable lot. He is not comfortable with Lot #13. He will let the Board comment and let the developer have the opportunity to make any concessions before taking a vote. A cul de sac is being created for one lot.

Ms. Hopkins agrees with Chairman Mancini on Lot #13, especially since Public Works has issues. Mr. Olean also agrees with the TRC on Lot #13. Mr. Mercurio asked if a modification can be made to Lot #13 and if restrictions could be placed to eliminate problems, and if Lot #13 could be constructed in a manner so as to alleviate problems in the area. Mr. Ranaldi replied no.

Chairman Mancini stated that no one can guarantee that water will not be dumped on other surrounding lots. The Board does not have to approve any waivers. Chairman Mancini stated that there is a plan in front of us with five waivers. The Board could vote on the plan before them unless the developer wants to make additional modifications.

Mr. Kelly stated that the Board could vote on the waivers, and then

vote on the plan. If no waiver is given for Lot #13, then the plan is approved without the waiver for #Lot 13, so Lot #13 will not be an approved lot.

Mr. Ranaldi stated that the waivers are – road length, the buildable area for Lots #1 and #5 and the wetlands waiver for Lots #12 and #13. Chairman Mancini stated that the plan before the Board is asking for five waivers.

Mr. Kelly stated that they are prepared to withdraw their request for a waiver on Lot #13 but would like to clarify the ramifications of that. They would like to cut that portion of the property off, continue lot line down, and revisit it at some point in time down the road. The engineer informed Mr. Kelly that the plan could be redesigned and a new plan would be presented – a modification of this plan. Mr. Kelly stated that the proposal before the Board would be for a waiver on the buildable area for lots #1, #5 and #12 and a waiver for road length.

Chairman Mancini stated that the developer has modified the plan and is requesting waivers for Lots #1, #5, and #12 and a waiver for the road length. Mr. Olean stated that he is in no way saying that Lot #13 is a buildable lot.

Mr. Mercurio made a motion to grant Master Plan approval with the three waivers granted on Lots #1, #5 and #12 and the waiver on road

length. The developer also agrees to make the offsite improvements. Mr. Kelly stated that the developer is giving an easement without charge through the property to service both the northern part of the town by having a third connection and the State to service the rest area. Ms. Hopkins seconded motion. Mr. Kelly wanted to be clear before the Board voted that when they come back at Preliminary Plan level, there will be the lots as shown to the right side of the blue line and the rest will be vacant. Mr. Kelly stated that they could come back with fewer lots after RIDEM reviews the plans for approval. Motion passed unanimously.

MAJOR LAND DEVELOPMENT REVIEW

a. Drive-Thru Establishment AP 41 Lot 69 Master Land Development Plan

Jason M. Ruotolo George Washington Hwy. Discussion/Approval

Mr. Ranaldi stated that this is a commercial development of one lot containing 2.42 acres of land. It is up for Master Plan Development Review. The applicant received a Certificate of Completeness on October 16, 2006 and the Board has until February 13, 2007 to make a decision. The TRC and Engineering Division reviewed the project and outlined some concerns. A RIDEM wetlands permit is needed, a Physical Alteration Permit (PAP) is needed for access onto Route 116, and Narragansett Bay Commission (NBC) approval. They are proposing to connect to Smithfield water lines. As development in this area continues, the water lines are getting closer and closer

together and will someday be connected. The existing lot drains into a wetland on site and the plan shows underground detention system which would have to be included in their PAP application. The TRC felt that the applicant successfully addressed the Master Plan and Preliminary Plan requirements and recommends that the plan be elevated to Preliminary Plan stage and go to a public hearing. Chairman Mancini asked if the TRC recommended combining Master and Preliminary Plan and Mr. Ranaldi replied yes, that the application is straight forward.

Curtis Ruotolo from Thalmann Engineering is representing the applicant. Chairman Mancini asked what kind of drive through establishment it would be. Mr. Ruotolo explained that the application is being shopped around to different establishments – unsure of what it will be. It was designed with the most stringent regulations – that being a drive up window restaurant. Chairman Mancini asked how it could be called a drive thru establishment if you don't know what's going in there. Mr. Lund stated that is how it is sold. Mr. Ruotolo stated that it could be sold as a bank or a fast food chain. Mr. Mercurio stated that if you don't know what's going there, you can't do a valid traffic study. If it's a bank, you will have different hours of operation than if it's a McDonald's open for 16 hours per day. Mr. Ruotolo explained that it was designed for the most stringent regulations which would be a drive up window service for a restaurant. Chairman Mancini asked if both stages were combined, when would they know what is going in there? At Preliminary Plan

level, specifics are needed – what, and how much traffic would be generated. Mr. Ruotolo agreed. They are submitting for permits now – if a bank comes in instead of a restaurant, the site layout would be changed. Mr. Mercurio asked if there is a difference in the number of parking spaces that have to be allocated for a bank versus a fast food facility, where you have more employees in the bank and less customer flow, where in the restaurant business, you have fewer employees and more customer flow. Mr. Ruotolo stated that the plan would have to be designed around that. Chairman Mancini stated that the Zoning regulations would determine that. Mr. Lund stated that Mr. Ruotolo stated in the beginning that he has designed around the most stringent conditions. Mr. Ruotolo explained that the parking was designed by occupancy – took how many parking spaces that could fit on the site.

Ms. Hopkins asked what stage are we at now, as the agenda says Master Plan. Chairman Mancini stated that the Board can combine stages at the next step. Mr. Ranaldi stated that the applicant can come back before the Board before final plan approval is given. Mr. Olean asked if the applicant would appear before the Area of Planning Concern. Mr. Ranaldi replied yes. Mr. Mercurio stated that the traffic flow varies tremendously depending on the tenant.

Mr. Lund stated that similar projects have separate inlets and outlets and advised the applicant to take that into consideration. Chairman Mancini stated that there already is a Wendy's, two Dunkin Donuts,

and a bank in the area.

Mr. Olean made a motion to move to a public hearing to combine Master Plan and Preliminary Plan. Mr. Lund seconded motion. Motion passed unanimously.

Ms. Hopkins left meeting.

ZONING ORDINANCE AMENDMENTS

Chairman Mancini suggested that he has gone through the amendments and has questions. He would like the Board to meet an hour before the next Planning Board meeting to discuss the zoning ordinance and make a recommendation to the Town Council. A special meeting will be held on November 15, 2006 at 6:00 to discuss the Zoning Ordinance Amendments.

There being no further business to discuss, on a motion made by Mr. Crowley and seconded by Mr. Mercurio, it was unanimously voted to adjourn. Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Margaret Weigner

Attached October TRC Report:

Dear Honorable Members,

On October 17, 2006 at 2:30 pm, the Technical Review Committee met to review the agenda items for the October 25, 2006 meeting of the Planning Board. In attendance were Al Ranaldi, Russell Hervieux, Kim Wiegand, John Faile, and Smoky Olean. Below are the Committee's recommendations:

Major Subdivision Review

a. Angell Road Subdivision – Modification AP 44 Lots 12, 90 Public Hearing – 7:15 PM

**- Angell Road Development Co. Angell Rd, Whipple Rd Preliminary Plan Discussion/
Approval**

This application is under the 2005 Subdivision Regulations and represents the addition of two new single family lots into a recently approved subdivision of thirteen single family residential lots. Lot #10 and 11 will be reconfigured to allow a new cul-de-sac to pass between them. The new lots #14 and 15 will be located at the end of this cul-de-sac. The two new proposed lots will be serviced with

public sewer and water. The subject lots are located in zoning district RS-20 (20,000 square feet – Residential Single Family).

The proposed project is classified as a Modification according to Section 10 (C) of the Subdivision Regulations that states, “Major changes to a land development or subdivision plan may be approved only by the Planning Board and must follow the same review and public hearing process required for approval of preliminary plans as described herein. For the purpose of these regulations, the term “major changes” shall mean any change that, in the opinion of the Administrative Officer, is clearly contrary to the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following: (1) Changes that would have the effect of creating additional lots for development or dwelling units”.

On August 16, 2006, the Preliminary Plan submittal for the above noted project received a Certificate of Completeness. According to our Subdivision Regulations – Section 14(G), “If a street extension or creation is required, the Planning Board shall hold a public hearing prior to approval according to the requirements of these regulations at Section 18(c) & (d) and shall approve, deny, or approve with conditions, the preliminary plan with conditions within ninety five (95) days of certification of completeness, or within such further time as is agreed to by the applicant and the Board, according to the requirements of Section 27”. Therefore, a decision on the Preliminary Plan review must be made by November 19, 2006 or within such further time as may be consented to by the applicant.

The Technical Review Committee and the Engineering Division have

reviewed the above proposed subdivision according to the 2005 Land Development and Subdivision Regulations preliminary plan submission standards and requirements and standard engineering practices. The submission includes a set of plans entitled “Modification to an Approved Subdivision for Angell Road Subdivision – AP44 Lot 12 and 90”, prepared for E.A.M. Properties, LLC by Commonwealth Engineers and Consultants, dated July 21, 2006. The submitted plans successfully address all of the regulation requirements. The existing detention basin has been enlarged to accommodate the increased stormwater runoff and the newly installed pump station can handle the increases. The TRC did not have any additional concerns.

The Technical Review Committee recommends that the applicant address any public concerns expressed during the Public Hearing. The applicant should present any changes to the plan at the regularly scheduled November meeting.

b. Kirkbrae Ledges Subdivision – Phase 11 AP 32 Lot 33 Master Plan Discussion /

- Kirkbrae Ledges, LLC Lancers Lane & Hemlock Road Approval

This Revised Master Plan (08-03-06) application is under the 2005 Subdivision Regulations and represents the subdivision of one lot into 11 single-family residential lots. The project is proposed to be reviewed in one phase. One house lot is proposed to be developed at the end of Hemlock Road. Ten house lots are proposed to be

developed off of an extension of Lancers Lane. This extension will have two new cul-de-sacs. On July 17, 2006, the Master Plan submittal for the above noted project received a Certificate of Completeness. According to our Subdivision Regulations, the Planning Board shall, within one hundred twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the master plan as submitted, approve with changes and /or conditions, or deny the applicant, according to the requirements of Section 8. A decision on the Master Plan must be made by November 14, 2006 or within such further time as may be consented to by the applicant. Below are the TRC recommendations for this project.

The Technical Review Committee and the Engineering Division have reviewed the above proposed subdivision according to the Land Development and Subdivision Regulations master plan submission standards and requirements and standard engineering practices. The submission includes a plan entitled "Kirkbrae Ledges Subdivision, Phase 11", AP 32, Lot 45, in Lincoln, Rhode Island, prepared for Kirkbrae Ledges LLC by Pare Engineering Corp., dated June 2006, amended August 3, 2006. Also received was a document entitled "Master Plan Report Kirkbrae Ledges Subdivision- Phase 11" prepared for the above applicant by the above engineers dated June 2006. Below are the TRC concerns.

Site Plan

Based on the revised master plan submission dated August 8, 2006,

the applicant is requesting six subdivision regulation waivers. The requested waivers are as follows:

- Road Length Waiver - The maximum allowed road is 720 feet long for this zone. The southwestern most cul de sac off Lancers Lane is greater than 720 feet. The proposed cul de sac is 1040 feet long. The increased length in the roadway is due to the need of RIDEM, the developer and LWC to get an easement for use of supplying water to the southbound rest stop/ Blackstone Valley Gateway center proposed on Interstate Route 295 (I-295). The construction and access to the easement is facilitated by the longer than standard road in this development. The easement would be granted free of cost. Since the water line requiring this easement has benefits to the Town and the State, the TRC feels that the variance for a longer road is acceptable.**
- Sidewalk Waiver. The applicant is requesting a waiver of sidewalks due to the fact that the existing neighborhood does not have sidewalks. Any new sidewalks would not connect to an existing pedestrian system.**
- Buildable Area Waiver. The buildable area for each lot is calculated and presented in a graph. Four lots would require waivers. The lots are number 1, 5, 12, and 13. Lots numbered 1 and 5 do not conform to the minimum buildable lot area due to steep slopes. Lots numbered 12 and 13 do not conform to the minimum buildable lot area due to 200' riverbank area.**

Proposed lots 1 and 5: less than 20,000 SF due to steep slopes. The existing contours of these lots contain several humps. In the particular situation for these variances, it does not appear that any extraordinary construction measures or engineering technology would be required to bring the proposed lots into conformance with the standards. No excessive blasting, retaining walls or cliff-like features would result from re-grading; therefore these variances are acceptable, in this case.

Proposed lots 12 and 13: less than 20,000 SF due to wetlands. Riverbanks are excluded from the buildable lot area. The two houses are proposed to be located entirely in the 200 foot riverbank wetlands. No soil evaluation or seasonal high ground water information is available for either of these areas. The TRC does not generally recommend approving any major construction in a wetland area. Of the two lots requiring a variance, the Engineering Office cannot give a positive recommendation to accepting lot 13. Particularly, the proposed extension of Hemlock Drive as a cul de sac and the associated storm water basin required for the house on lot 13 are in an especially marginal location. Public Works' concerns are with the proximity of the house and detention basin to existing, down gradient houses, the seasonal high water table and adjacent stream. Public Works cannot control how a home owner redirects drainage flow from roof drains, accessory structures, landscaping after a certificate of occupancy has been granted.

Groundwater

A certified soil evaluator estimated the seasonal high ground water elevations at various locations on the property. The Town Engineer witnessed the excavation of test pits. This data is not shown on the plans. In general, the seasonal high ground water elevations are within a few feet of the surface. Because of existing drainage problems in the area and the lack of any alternative drainage site for ground water brought to the surface, it is recommended that a condition of approval for the subdivision be that finished floors or basements must be set above the seasonal high ground water elevation. In addition, for the same reason, it is recommended that no detention basins be constructed into the elevation of the seasonal high ground water.

Wetlands

The proposed subdivision must obtain a RIDEM Wetlands Preliminary Determination permit as a condition of approval for subdivision. Riverbanks are excluded from the buildable lot area. The house proposed off Hemlock Drive is located entirely in riverbank wetlands. A letter verifying the location and type of some of the wetlands on the property did describe an isolated wetlands which would not have an associated perimeter wetlands. It is not likely that the findings in this letter, despite having expired, would be significantly different. However, the letter does not appear to have verified the type of wetlands between lots 7 and 9.

Utilities

The plan shows public water and sewer connections to the proposed lots. Gravity sewers are proposed. Written conformation of the availability of public sewers and the ability of the receiving pump station to accommodate the additional flow must be submitted. The Lincoln Water Commission (LWC) has communicated to the Town that public water service is available to this project. The water line is proposed to be looped through an easement to meet LWC requirements.

Drainage

The Town has observed severe, existing drainage problems over the years in this area. Drainage design for the subdivision must include no increase of stormwater peak rate of flow or volume from the subdivision onto the properties on Kirkbrae or Timberland Drives, Lancers Lane or into the wetlands connected to the brook that flows under Timberland Drive. This is recommended so as not to exacerbate existing drainage problems in the Kirkbrae neighborhood.

Based on the revised Master Plan submission dated August 3, 2006, the number of proposed house lots and waivers have dropped from 13 house lots to 11 and from 12 waivers to 6. Again, the Technical Review Committee wrestled with the number of subdivision waivers required by this project. This concern was expressed to the developer which in turn presented several noteworthy off site improvements he will do in coordination with this subdivision. At this

time, the TRC recommends to the Planning Board that they weigh the number of waivers against the proposed off site improvements and discuss the likelihood of this project moving ahead to a successful outcome with the developer. The TRC feels that the off site improvements and the benefits that they will provide to the Town and the State outweigh the associated waivers. Therefore, the Technical Review Committee recommends Master Plan Approval with the above noted Conditions.

Major Land Development Review

a. Drive-Thru Establishment AP41 Lot 69 Master Land Development Plan

- Jason M. Ruotolo George Washington Hwy

Discussion/Approval

This application is under the 2005 Subdivision Regulations and represents the commercial development of a single lot containing approximately 1.242 acres. This project is in front of the Planning Board for a Master Plan Land Development Review. On October 16, 2006, the Master Plan submittal for the above noted project received a Certificate of Completeness. According to our Subdivision Regulations, the Planning Board shall, within one hundred twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve the master plan as submitted, approve with changes and/or conditions, or deny the applicant, according to the requirements of Section 8. A decision

on the Master Plan review must be made by February 13, 2007 or within such further time as may be consented to by the applicant.

The Technical Review Committee and the Engineering Division have reviewed the above proposed project according to the 2005 Land Development and Subdivision Regulations master plan requirements and standard engineering practices. The plans reviewed were entitled “Master Plan Submission – Drive Thru Establishment, AP 41 Lot 69”, Lincoln, Rhode Island, sheets 1-4, prepared for the owner, Ronald Fish and the applicant, Jason Ruotolo by Thalmann Engineering Co., Inc., dated September 2006. In addition a report entitled “Drive Thru Establishment, George Washington Highway AP 41 Lot 69, Master Plan-Development Impact Narrative”, dated September 2006 was received. Below are the Technical Review Committee comments.

Environmental

The wetlands have been located in the field and verified by RIDEM. Preliminary approval will require a permit from RIDEM Wetlands. Location of any existing wells and/or septic systems within 200 feet of the property must be shown on the plan. Any onsite wells or septic systems will need to be properly closed and/or removed.

Traffic/Road/Site

Access to the site is from a State Highway, Route 116, George Washington Highway. The project will require a Physical Alteration Permit (PAP) from RIDOT for access to the property for preliminary

approval. It is recommended that the Albion Fire Department review the plans for fire and rescue service safety at preliminary plan.

Sanitary Sewers

The development is proposed to flow to the Narragansett Bay Commission (NBC) interceptor on Route 116. Approval from NBC will be required for preliminary approval.

Public Water Service

Municipal water service is proposed from the Town of Smithfield. Since the development is in Lincoln, the Lincoln Water Commission as well as the water authority in Smithfield needs to state that public water to the development is available. Confirmation of availability of public water service will be required for preliminary approval.

Drainage

The existing lot drains mainly to wetlands on site. The plans show an underground detention system which is proposed to discharge into the wetlands. The drainage facilities are proposed to include mitigation of storm water flows. The wetlands drain under the State highway to the wetlands on the south side of Route 116. This drainage system will need to be included in the PAP application since it potentially impacts the State drainage system.

Based on the above review of this project, the TRC feels that this project successfully meets all of the Master and Preliminary Plan

requirements of the Town's Subdivision Regulations. The TRC recommends that the application be elevated to the Preliminary Plan stage and move forward to a public hearing in November.

Zoning Ordinance Amendments

On October 16, 2006, the Town Council decided to reject the first proposed amendments and reinitiate the public hearing process from the beginning. The Town Council will hold another public hearing during November and hopes to vote on the amendments by December. Therefore, a new Planning Board recommendation is needed. This item has been placed on the Planning Board agenda for discussion on October 25, 2006.

Enclosed in your packets is the newly revised Zoning Ordinance. These changes were generated from additional public hearings held by the Town Council during the months of June, July, and August. You will notice that the presentation format has changed from the last edition. Items that were added to the original Zoning ordinance are underlined while items that were deleted are shown with a strikethrough. A brief summary of the proposed amendments for your review has been included.

Many of the proposed amendments are administrative in nature. For example, you will notice that the definition section has been moved from the back of the Zoning Ordinance to the front of the new document. We have also included all of the application forms at the end of the document for easy reference. The entire document has been re-numbered to correspond to the numbering system

established within the Town Code, in which the Zoning Ordinance is a section therein. You will also notice some new zoning “tools”. For example, the Mill Conversion Overlay District was developed to help simplify and clarify the review process for the Boards and the applicant as well as to promote well thought out redevelopment. Many proposed amendments were developed to accommodate the recommendations presented within the Town approved Affordable Housing Production Plan and Rhode Island General Law 45-53. For example, Inclusionary zoning is a zoning tool used to promote affordable housing within new residential development projects having five or more dwelling units.

November Zoning Applications

Omnipoint Communications, Inc., 50 Vision Boulevard, East Providence, RI/St. James Church Corp., 33 Division Street, Manville, RI – Use Variance for the installation, operation and maintenance of a wireless communications facility on property located at 33 Division Street, Manville, RI.

AP 37, Lot 198 Zoned: RG 7

Members of the Technical Review Committee visited the site and reviewed the submitted project plans and application. The TRC recommends Approval of this application. The proposed project represents the installation, operation and maintenance of a wireless communications facility on the property. The applicant is proposing

to install color and texture coordinated telecommunication antennas onto the church steeple. The antennas measure approximately 4” deep by 12” wide by 72” long. The applicant proposed to install three antennas to the steeple. All other equipment will be located within the existing church facility. Based on a site visit, the TRC feels that the applicant presents a realistic site layout that meets the intent of the zoning with special consideration given to the Article 11.A.7.14. The TRC feels that the telecommunication installation will not be detrimental to the surrounding residential neighborhood. The Technical Review Committee feels that the use variance will not alter the general character of the surrounding area and will not impair the intent or purpose of the zoning ordinance, nor the Comprehensive Plan.

Omnipoint Communications, Inc., 50 Vision Boulevard, East Providence, RI/St. James Church Corp., 33 Division Street, Manville, RI – Dimensional Variance for front and rear yard setback and height relief for the installation, operation and maintenance of a wireless communications facility on property located at 33 Division Street, Manville, RI.

AP 37, Lot 198 Zoned: RG 7

The proposed dimensional variances are to clear up the pre-existing nonconformance of this parcel of land. This lot and existing building was platted and developed before present day zoning regulations. The Technical Review Committee recommends Approval of this

application. The TRC finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Gary & Lori Rosa, 34 Westwood Road, Lincoln, RI –Use Variance for a two family dwelling (existing) as part of a new subdivision.

AP 16, Lot 10 Zoned: RS 12

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Denial of this use variance. The TRC feels that the use variance for the two-family unit is inconsistent with the surrounding area and inconsistent with the Comprehensive Plan. The Committee feels that the application does not meet any of the standards for relief of a use variance as presented in the Zoning Ordinance. More specifically, the TRC feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. The Technical Review Committee feels that the use variance will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Gary & Lori Rosa, 34 Westwood Road, Lincoln, RI –Dimensional Variance for front and side yard setback.

AP 16, Lot 10 Zoned: RS 12

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Technical Review Committee recommends Denial of this dimensional variance. The TRC feels that the dimensional variance for the two-family unit and associated detached garage is inconsistent with the surrounding area and inconsistent with the Comprehensive Plan. The Committee feels that the application does not meet any of the standards for relief of a dimensional variance as presented in the Zoning Ordinance. More specifically, the TRC feels that the site plan and application does not represent the least relief necessary and is not due to the unique characteristics of the subject land. The Technical Review Committee feels that the dimensional variance will alter the general character of the surrounding area and will impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.

Maureen Alexander, 1519 Smithfield Avenue, Lincoln, RI – Dimensional Variance for front and side yard setback for the construction of an addition.

AP 9, Lot 118 Zoned: RL 9

Members of the TRC visited the site and reviewed the submitted plans and application. The TRC recommends approval of the application for a dimensional variance. The TRC feels that due to the unique characteristics of the structure, and the limiting size of the property, the application meets the standards of relief for a dimensional

variance. The Committee finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Gary LaChance, 84 Parker Street, Lincoln, RI –Dimensional Variance for rear yard setback for the construction of an addition.

AP 16, Lot 272 Zoned: RL 9

Members of the TRC visited the site and reviewed the submitted plans and application. The TRC recommends approval of the application for a dimensional variance. The TRC feels that due to the unique characteristics of the existing structure that the application meets the standards of relief for a dimensional variance. The Committee finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Prev Court LLC, P.O. Box 567, Albion, RI – Dimensional Variance for front yard setback for the construction of two residential houses on Preserved Arnold Court, Lincoln, RI.

AP 20, Lot 4 Zoned: RL 9

Members of the TRC visited the site and reviewed the submitted plans and application. The TRC recommends approval of the application for a dimensional variance. The TRC feels that due to the unique

characteristics of the property, and its proximity to wetlands, the application meets the standards of relief for a dimensional variance. The Committee finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

New Hope Fellowship, 45 Cedarcrest Drive, Pawtucket, RI/Don & Pat Ryan, 25 Carrington Street, Lincoln, RI – Use Variance for the operation of a church organization to be located at 25 Carrington Street, Lincoln, RI.

AP 5, Lot 62 Zoned: ML 0.5

Members of the Technical Review Committee visited the site and reviewed the submitted site plan and application. The TRC recommends Approval of this use variance application. The TRC feels that the proposed use compliments the existing use of the building and has enough parking to accommodate each use. The proposed mix-use of this property will be a less intensive use of the parcel. Residential and light business uses currently surround this area and the proposed development will compliment the established residential neighborhood surrounding this parcel of land. Based on the Comprehensive Plan's objectives, the Town developed a proposed zoning ordinance amendment for mill conversion. This amendment would establish the conversions of existing mill buildings into mixed use complexes as a special use permit. This application could easily fit within the objectives and standards of the

proposed amendment. The Technical Review Committee feels that the use variance will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.